

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Crim. File No. 09-349 (01) (DWF/SRN)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	ORDER FOR DETENTION
)	
v.)	
)	
JOSEPH L. FINNEY,)	
)	
Defendant.)	

This matter was before the Court on July 6, 2010, for a hearing on a motion to revoke the defendant's pretrial release. Defendant was represented by Clifford Barnard and Kevin M. O'Brien and was present for the hearing. The government was represented by Assistant U.S. Attorney Robert M. Lewis.

Based upon all the files and proceedings herein, the Court finds that the defendant violated the conditions of his pretrial release. The Court finds that there is no condition or combination of conditions that will ensure the safety of other persons and the community. The Court further finds that the facts used to support this conclusion are supported by clear and convincing evidence. Accordingly, the government's motion to revoke pretrial release is granted and the defendant is ordered detained pending trial.

FINDINGS OF FACT

1. In 2003, the defendant was convicted of conspiracy under 18 U.S.C. § 371. The defendant was serving his sentence for that offense while he is alleged to have participated in a conspiracy as alleged in the Indictment. Moreover, the defendant is currently

awaiting trial on a felony state charge in Colorado relating to fraud.

2. The defendant made his initial appearance in this matter on November 24, 2009 in the U.S. District Court for the District of Colorado. He was ordered released with conditions, including that he "avoid all contact, directly or indirectly, with any person who is or may become a victim or potential witness in the investigation or prosecution."

3. On December 7, 2009 the defendant made his initial appearance in the District of Minnesota. He was released again with conditions, including that he "avoid all contact, directly or indirectly, with any person who is or may become a victim or potential witness in the investigation or prosecution." The defendant consulted with his attorney to ensure that he understood the conditions of release, read and signed the order setting the conditions, and indicated to the Court that he understood the conditions and potential penalties and sanctions.

4. The order advises the defendant that it is a crime to, among other things, obstruct a criminal investigation or tamper with a witness, victim, or informant.

5. The defendant has had communications with victims or potential witnesses in this prosecution, including a meeting in person at which the defendant confided that he was not supposed to be talking with the victims or potential witnesses because of his pending case. Moreover, the defendant's communications with the

victims or potential witnesses included assurances that he would be giving them money within weeks.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the Court makes the following conclusions of law:

1. There is no condition or combination of conditions which will reasonably assure the safety of others and the community.

2. The defendant has violated the conditions of his pretrial release.

3. Defendant therefore shall be detained without bond pending trial in this matter.

For the foregoing reasons,

IT IS HEREBY ORDERED that:

1. The motion of the United States for revocation of pretrial release and detention of the defendant without bond is GRANTED;

2. The defendant is committed to the custody of the United States Marshal for confinement in a correctional facility suitable for persons awaiting trial;

3. Defendant shall be afforded reasonable opportunity to consult privately with his lawyer; and

4. Upon order of the Court or request by the United States Attorney, the person in charge of the correctional facility in which the defendant is confined shall deliver him to the United States Marshal for the purpose of appearance in connection with a court proceeding.

Dated: July 7, 2010

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States Magistrate Judge